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December 4, 2003

VIA HAND DELIVERY

Deborah Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37219

Re: Petition of Chattanooga Gas Company, Nashville Gas Company, a division of Piedmont Natural Gas Company, Inc. and Atmos Energy Corporation for a Declaratory Ruling regarding the Collectibility of the Gas Cost Portion of Uncollectable Accounts under the Purchase Gas Adjustment ("PGA") Rules
Docket No. 03-00209

Dear Chairman Tate:

Enclosed are the original and thirteen (13) copies of the Reply to Response to Motion of Summary Judgment filed on behalf of the Petitioners (i.e., Chattanooga Gas Company, Nashville Gas Company and Atmos Energy Corporation) and the Petitioner's Motion to Strike Unsubstantiated Statements in the Affidavit of Daniel McCormac.

Sincerely,



D. Billye Sanders
Attorney for Chattanooga Gas Company

DBS/hmd
Enclosures

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Deborah Tate, Chairman

December 4, 2003

Page 2

cc: Shilina Chatterjee, Esq.
Archie Hickerson
Bill Morris
Jerry W. Amos, Esq.
James Jeffries, Esq.
Patricia Childers
Joe A. Conner, Esq.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

PETITION OF CHATTANOOGA GAS
COMPANY, NASHVILLE GAS COMPANY,
A DIVISION OF PIEDMONT NATURAL
GAS COMPANY, INC. AND UNITED
CITIES GAS COMPANY, A DIVISION
OF ATMOS ENERGY CORPORATION,
FOR A DECLARATORY RULING
REGARDING THE COLLECTIBILITY
OF THE GAS COSTS PORTION OF
UNCOLLECTIBLE ACCOUNTS UNDER
THE PURCHASED GAS ADJUSTMENT
("PGA") RULES

DOCKET NO. 03-00209

Petitioners' Reply to Response to Motion for Summary Judgment

Come now Chattanooga Gas Company ("Chattanooga Gas"), Nashville Gas Company, a Division of Piedmont Gas Company, Inc. ("Nashville Gas"), and Atmos Energy Corporation ("Atmos") (collectively, the "Petitioners") to Reply to the Consumer Advocate & Protection Division's ("CAPD") Response in Opposition to Petitioners' Motion for Summary Judgment.

The Material Facts Supporting Petitioners' Motion Are Undisputed.

Pursuant to Tennessee Rule of Civil Procedure 56.03, the facts set forth in Petitioners' Statement of Undisputed Facts are deemed admitted since the CAPD failed to file a response to said Facts. Therefore, Petitioners' Motion for Summary Judgment is based strictly on a question of law for the Tennessee Regulatory Authority ("TRA") to determine.

Although the Petitioners maintain that there are no "material facts" in dispute to prohibit the TRA from ruling on summary judgment that the "Gas Cost" portion of the Petitioners' uncollectable accounts may be recovered through the PGA as part of total Gas Costs, the CAPD raises a number of immaterial, disputed and unsubstantiated factual assertions in the Affidavit of Daniel McCormac filed as Exhibit A to the CAPD's Reply Memorandum to Petitioners' Response to the CAPD's Motion for Summary Judgment. The Petitioners maintain that the disputed facts now raised by the CAPD are not material to the legal question to be decided in Petitioners' Motion for Summary Judgment. For the convenience of the TRA, a listing of several of the unsubstantiated, disputed facts that are not material to the disposition of the Petitioners' Motion for Summary Judgment are attached as Exhibit 1 to this Reply.

After the filing of the McCormac Affidavit, the Petitioners' requested the CAPD to supplement its Data Responses in order to demonstrate the basis of the unsubstantiated and disputed facts raised by the McCormac Affidavit. The CAPD's initial attempt at supplementation was insufficient and by letter dated November 24, 2003, counsel for Atmos requested further supplementation. See Exhibit 2. The CAPD responded on November 25 and filed a supplemental discovery response which is attached hereto as Exhibit 3. However, this latest response is also insufficient. For instance, the CAPD identified Daniel McCormac's Affidavit as containing the scope of his

purported "expert" testimony. Then when asked to provide the grounds (including without limitation any factual basis) for the opinions to which the witness is expected to testify, and provide a summary for the grounds for each such opinion, the CAPD simply responded: "The current PGA rule, current and prior practices, data supplied by petitioners, testimony and exhibits given before the PSC and/or TRA in prior proceedings." This attempt at supplementation is totally insufficient and fails to adequately identify the grounds and factual basis for the opinions and statements made by Mr. McCormac in his Affidavit. Accordingly, the Petitioners request that the unsubstantiated statements in Mr. McCormac's Affidavit be disregarded and/or stricken from consideration in ruling on the cross motions for summary judgment.¹

The Petitioners have also filed a second Affidavit by Archie Hickerson (Exhibit 4) and an Affidavit by Patricia Childers (Exhibit 5) to address some of the unsubstantiated misstatements made in the McCormac Affidavit. Although the Petitioners maintain that the Authority may rule on pending cross motions for summary judgment in spite of the factual dispute raised by the McCormac Affidavit, if the TRA deems that these assertions are material, both motions should be denied and the matter should be set for a full evidentiary hearing. See T.R.C.P. 56.03.

The Petitioners are merely seeking the implementation of an alternative method to collect the Gas Costs portion of uncollectible accounts

¹ See contemporaneously filed Motion to Strike

which is indisputably more accurate than the method currently being used, and is consequently more fair to both the customer and the company. The CAPD's unsubstantiated efforts to characterize the Petitioners' proposal as a scheme to hurt consumers is both unjustified and untrue and should not be considered in deciding the Motions for Summary Judgment.

The Intent Of The PGA Rules Is Clearly Expressed In Its Language.

Both parties agree that PGA Rule 1220-4-7.02 allows gas companies to recover "the total cost of gas purchased for delivery to its customers and to assure that the Company does not over-collect or under-collect Gas Costs from its customers." TRA Rule 1220-4-7-.02. However, the parties' dispute simply concerns the meaning of "Gas Costs" that are recoverable. The CAPD attempts to decipher the intent of the PGA Rules by citing portions of the Rule other than the portion containing the intent statement. The CAPD further confuses the issue by citing accounting tools used for reporting that are irrelevant to this proceeding. Petitioners reference the unambiguous definition of "Gas Costs" that is set forth in TRA Rule 1220-4-7-.01(1) to support their position that the Gas Costs portion of its uncollectible accounts

are recoverable through the PGA Rules.² Petitioners seek to recover only the “Gas Costs” portion of uncollectible accounts. However, the CAPD’s Response fails to acknowledge that the Gas Costs that the Petitioners seek to recover through the PGA are included in the broad definition of “Gas Costs” set forth in the Rules.

Instead, the CAPD relies heavily on the Uniform System of Accounts (“USOA”) in an attempt to categorize Petitioners’ uncollected Gas Costs strictly as a “Customer Accounts Expense” rather than a “Gas Costs Expense”. The CAPD’s reliance on the USOA is misplaced. The USOA is merely a reporting tool for categorizing different items of expenses on financial statements. The TRA is not bound by the method adopted by the USOA for rate-making purposes, and it is not even persuasive to the issue before the TRA since it is merely a reporting tool. There may be a difference between accounting for rate-making purposes and accounting for reporting purposes. Adjustments to USOA accounts are routinely made for ratemaking and monitoring purposes. The PGA revenues that are recorded in the USOA accounts and the costs of gas recorded in accordance with USOA are excluded when the TRA evaluates and establishes base rates for natural gas

² TRA Rule 1220-4-7-.01 contains the following definition of “Gas Costs” –

the total delivered cost of gas paid or to be paid to Suppliers, including, but not limited to, all commodity/gas charges, demand charges demand charges, peaking charges, surcharges, emergency gas purchases, over-run charges, capacity charges, standby charges, gas inventory charges, minimum bill charges, take-or-pay charges and take and pay charges, storage charges, service fees and transportation charges and any other similar charges that are paid by the Company to its gas suppliers in connection with the purchase, storage or transportation of gas for the Company’s system supply.

companies. (See Second Affidavit of Archie Hickerson; See also Chattanooga Gas Companies' last rate case, TRA Docket No. 97-00982, Order p. 47 which is filed in this Docket in response to CAPD Data Request No. 9.)

The TRA does not have to look to accounting rules to determine whether it was intended that Petitioners be allowed to recover the Gas Costs portion of their uncollectible accounts through the PGA rules. The PGA rule expressly sets forth its intent as follows:

These Purchased Gas Adjustment (PGA) Rules are intended to permit the company to recover, in timely fashion, the total cost of gas purchased for delivery to its customers and to assure that the Company does not over-collect or under-collect Gas Costs from its customers.

These Rules are intended to apply to all Gas Costs incurred in connection with the purchase, transportation and/or storage of gas purchased for general system supply

TRA Rule 1220-4-7-.02(1)(2) (emphasis added).

The PGA rules promulgated by the TRA are the controlling authority in this docket and have the force of law. Thus, the rules of statutory construction apply. Petitioners contend that the language of the PGA rules clearly allow for the recovery of all Gas Costs and define Gas Costs broadly enough to include the Gas Costs portion of Petitioners' uncollectible accounts. Therefore, "[w]hen the language of a statute is unambiguous, . . . intent is to be ascertained from the plain and ordinary meaning of the statutory language." Lucchesi v. Alcohol and Licensing Comm'n of City of Memphis, 70

S.W.3d 49, 55 (Tenn. Ct. App. 2001); Exxon Corp. v. Metropolitan Government of Nashville and Davidson County, 72 S.W.3d 638, 641 (Tenn. 2002) (“[A] court ascertains a statute’s purpose from the plain and ordinary meaning of its language, without forced or subtle construction that would limit or extend the meaning of the language.”)

It Would Not Be Contrary To The Practice Of Setting Base Rates Or The Operation Of The PGA Rules To Now Include Uncollectible Accounts In The PGA Rules.

Petitioners agree that the PGA rules were designed to allow for the fluctuation of Gas Costs and can be adjusted to keep up with the rapidly changing cost of gas. In addition, the PGA rules were also designed to permit utility companies to recover the total cost of gas. Although the TRA considers a company’s historical uncollectible accounts when establishing base rates, due to the volatility of the gas prices, there is a high risk of not accurately predicting a compensatory base rate. While theoretically a company could frequently file rate cases to account for this volatility, this is not practical or cost effective for the companies or its customers. A more efficient and accurate method of recovering the difference between the allowance for uncollectible accounts and the actual Gas Costs is through the PGA rules. This method would prevent the inevitable under-collecting or over-collecting that is bound to occur when gas prices are volatile.

Since 1995 (the year of Amos' last rate case),³ gas prices have fluctuated between a low of \$1.43 per mcf (July 1995) and a high of \$6.82 per mcf (Jan. 2001). See Appendix B to Second Affidavit of Archie Hickerson. The graph attached to Mr. Hickerson's testimony shows how volatility has increased since the Petitioners' last respective rate cases. This volatility is the reason that the Gas Costs should be recovered through the PGA instead of partially through the PGA and partially through base rates. To the extent that a portion of Gas Costs is included in base rates, only the difference would be recovered through the PGA. In future rate cases, no Gas Costs would be included in base rates. See Petition for Declaratory Ruling in this Docket, pp. 4-5, ¶ 4-6.⁴ As evidenced by Appendix B to Mr. Hickerson's Second Affidavit, uncollectible accounts rise and fall with the price of gas. Thus, including uncollectible Gas Costs in base rates negates the intent of the PGA Rules.

The method of recovering the Gas Costs portion of bad debt proposed by Petitioners is consistent with the PGA Rules and is simply an alternative approach for achieving the goal of recovering the total Gas Costs, especially in light of increased volatility of Gas Costs in the last 8 years.

There Is Clear TRA Precedent For The Interpretation that the Gas Costs Portion of Uncollectible Accounts Is Recoverable Under The PGA Rules.

³ Chattanooga Gas' last rate case was in 1997 and Nashville Gas' case prior to its 2003 case was in 1999.

⁴ As a result of its most recent rate case (2003), initially Nashville Gas will likely be refunding money to its customers if the treatment Petitioners are proposing is adopted.

Contrary to the assertions set forth in the CAPD's Response, Petitioners are aware that the Order in Docket 01-00802 permitted the Applicants to recover the Gas Costs portion of uncollectible accounts through the PGA Rules for a particular period in time. The point of citing the holding in the Order is to highlight this Authority's prior conclusion that the Gas Costs portion of uncollectible accounts is recoverable through the PGA Rules without an amendment to the PGA rules or a rulemaking proceeding. See Order in Docket No. 01-00802. Likewise, Petitioners acknowledge and admit that the customary method for the recovery of the uncollectible portion of Gas Costs has been through an allowance for uncollectible accounts in base rates. However, just because this is the method that is customarily utilized does not mean that recovery through the PGA Rules, an alternative mechanism, is not allowed under the law. See id. Current circumstances, i.e. gas cost volatility over an extended period of time, simply warrant a change in the practice.

Additionally, the CAPD stated that TRA Rule 1220-4-1-.12 was the basis for the Petitioners to seek the relief requested in Docket Number 01-00802. While this was the Rule cited in the Application in that Docket, it was an inadvertent error inasmuch as Rule 1220-4-1-.12 was an earlier version of the PGA Rule that had already been repealed at the time the Application was filed. Regardless to whether the appropriate version of the rule was cited in the Application, the TRA specifically stated that the relief requested by the Applicant's in that case "is consistent with the intent of Authority Rule 1220-

4-7-.02, which allows for recovery of gas costs.” The Order went on to quote the text of the rule it was relying on in footnote 9. Therefore the inadvertent error in the Application does not affect the precedential value of the ruling in Docket Number 01-00802.

Ironically, the Applicant’s in Docket No. 01-00802 filed a Second Amended and Restated Joint Application for Approval of Treatment of Uncollectible Accounts specifically for the purpose of modifying the application to accommodate the recommendations of the TRA Staff and the CAPD.⁵ Dan McCormac was Chief of the Energy and Water Division of the TRA, at the time. The primary difference between the Amended and Restated Application and the Second Amended and Restated Application is that the Applicants specifically referred to the PGA rule in seeking recovery of the Gas Costs portion of uncollectible accounts.⁶ The CAPD staff did not object to this method of recovery.⁷

In the present case, Dan McCormac inferred in his Affidavit filed in support of the Motion for Summary Judgment, that the gas costs portion of the uncollectible accounts cannot be separated from the non-gas costs portions. See Affidavit of Dan McCormac, pp. 10 and 12. However, in the 2001 Docket involving this issue, it was the TRA Staff (of which Mr.

⁵ See Second Amended and Restated Joint Application for Approval of Treatment of Uncollectible Accounts Docket No. 01-00802 Page 1, paragraph 1.

⁶ See id., at page 5, paragraph 5 and Amended and Restated Joint Application, Docket No. 01-00802 (filed November 3, 2003 in this Docket)

⁷ The CAPD did not intervene in the case, but the Applicants consulted the CAPD.

McCormac was Division Chief) that provided the Applicants with the spreadsheet to be used by the gas companies to quantify the amount of uncollected gas costs to be deferred (See Second Affidavit of Archie R. Hickerson, Paragraphs 5-12). The costs were separated pursuant to the procedure recommended by the TRA Staff with no objection from the CAPD.

A Rule Making Proceeding Is Not Required

The Petitioners briefed this issue in their initial response to the CAPD's Motion for Summary Judgment and will not repeat that discussion in this reply. However, the CAPD improperly relies on Tennessee Cable Television Association v. Tennessee Public Service Commission, 844 S.W. 2d 151 (Tenn. Ct. App. 1992), which is clearly distinguishable from the pending action. In Tennessee Cable, the Tennessee Public Service Commission ("PSC") was addressing major technological changes and significant federal regulatory reform to the telecommunications industry. The action taken by the PSC was essentially a complete overhaul of the regulatory requirements applicable to the telecommunications industry. The Court noted the circuitous route that the PSC chose to implement the Plans:

Its first action was to simply announce on July 31, 1990 that it had "approved" both plans "subject to hearing and public comment." Its second action was to commence a "contested" rate-making hearing involving South Central Bell for the purpose of implementing both plans. Its third action was to determine, in accordance with the plans, that the company's projected excess earnings would be 157.3 million and to order that 111.5 million of these earnings be spent to

upgrade the company's network as required by the technology master plan. It was only after all these steps had been taken that the Commission was prodded into initiating the formal rulemaking procedures...Tennessee Cable, at p. 163.

Unlike the Tennessee Cable case, the issue before the Authority involves the interpretation of the intent and application of an existing rule and not a major regulatory change. As noted by the Tennessee Cable Court, "the choice between rulemaking and adjudication lies primarily in the informed discretion of the administrative agency." Id., at 161. Clearly, a declaratory ruling is the appropriate method to resolve the pending issue.

Conclusion

The Gas Costs portion of uncollectible accounts is clearly recoverable pursuant to the PGA Rules. As a matter of law, Petitioners' Motion for a Summary Judgment finding that the Gas Costs portion of the uncollectible accounts is recoverable through the PGA Rules should be granted. The nature of the Gas Costs does not change merely because they are reported on a particular line under the Uniform System of Accounts ("USOA"). For rate-making purposes, the TRA is free to allow recovery of these costs through the PGA. Finally, the increased volatility of gas prices at the wellhead makes it difficult to create an allowance in base rates that reasonably matches Petitioners' Gas Costs expense, thus it is reasonable to modify the practice of recovering Gas Costs in base rates and shift the recovery of all Gas Costs to the PGA, which is in keeping with the intent of the PGA Rules. For the foregoing reasons and the for the reasons stated in Petitioner's Petition,

Petitioners' Response in Opposition to Motion for Summary Judgment of the CAPD, and other responsive pleadings in this Docket, Petitioners' Motion for Summary Judgment should be granted.

Respectively submitted this 4th day of December 2003.

Chattanooga Gas Company

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Its Attorney
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Nashville Gas Company, a
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By: Joe A. Conner by DBS
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Misty Kelley
Its Attorneys
Baker, Donelson, Bearman &
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been
mailed, postage prepaid to the following this 4th day of December, 2003.

Shilina B. Chatterjee
Vance Broemel
Assistant Attorneys General
Office of Consumer Advocate and Protection Division
425 Fifth Avenue North
Nashville, TN 37202-0207

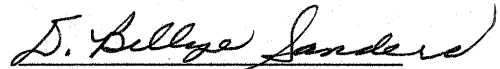

D. Billye Sanders

EXHIBIT 1

EXHIBIT 1 TO PETITIONERS' REPLY TO RESPONSE TO MOTION FOR
SUMMARY JUDGMENT

Some of the unsubstantiated, disputed immaterial facts in Daniel McCormac's Affidavit are listed below¹:

1. Pg. 13, ln. 253-261.

Q. Would you explain how historical practice supports the current interpretation of the current rule that utilities are allowed to "bill" all prudently incurred gas costs?

A. The petition attempts to change the historical interpretation of the PGA rule. *The PGA rules were designed to allow companies to "recover" gas costs by "billing" those costs to consumers. The PGA rules have been interpreted this way consistently since implementation in 1970.* Unpaid bills are called "Uncollectible Accounts" expense and have been recovered through the base rate portion of revenues as part of the authorized gross profit margin established in a rate case.

2. Pg. 13, ln. 270-271; pg. 15, ln. 316-317, 320-322.

Q. What were some of the unprecedented circumstances surrounding the one-time-only allowance?

A. . . . The modified petition that was filed by the gas industry in 2001 was ultimately approved. *But that petition was presented as an exception to the rule . . . This good-faith exception should not be used as a precedent to change an interpretation that has endured for 33 years.*

¹ This list is not necessarily exhaustive of statements that are disputed and immaterial to the disposition of the Motions for Summary Judgment.

3. Pg. 16, ln. 352-353; pg. 17, ln. 366-372.

Q. How could the utilities have an incentive to allow Uncollectible Accounts expense to rise?

A. ...For example, during the winter of 2000-2001, *some of the petitioners did not have sufficient employees to follow the established disconnection and connection policies. As a result of the shortage of employees, some consumers who were not paying the gas bills were allowed to continue to take gas even through the summer of 2001. This quite likely contributed to the increased levels of Uncollectible Accounts expense in 2001.*

4. Pg. 18, ln. 405; ln. 407-409; pg. 19, ln. 411-417, ln. 423-425, 429-436; Pg. 20, ln. 446-448; Pg. 21, 461-462.

Q. Does this support the need for a rate change?

A. ...For example, *interest expense on short term debt has declined by 50% or more in the last few years. Other expenses have saved these utilities millions of dollars. . . . Perhaps the Petitioners could use some of these savings to offset any increase in Uncollectible Accounts expense instead of trying to increase rates to consumers. Atmos and Chattanooga Gas have also reduced levels of employment in Tennessee. Chattanooga Gas has reduced service employees from 37 in 1996 to 30 in 2003. Atmos has reduced customer service expenses from \$303,479 in 1995 to \$36,764 in 2002. . . . It is quite possible that the extra \$2 late charge associated with*

the higher costs of gas could offset a large portion of any increase in Uncollectible Accounts expense. . . . In the 2003 Nashville Gas rate case, Uncollectible Accounts expense was assumed to be .45% of total revenues. Similarly, the latest Atmos rate case assumed .12% of revenues for Uncollectible Accounts expense, but the Forfeited Discount revenue was estimated to be .43% of revenues. If the utilities want a rate increase to adjust for increases in Uncollectible Accounts, the utilities should also be willing to give a rate reduction to reflect increases in Forfeited Discounts revenue. . . . In addition, the petitioners are collectively receiving millions of dollars per year in "incentive payments" over and above actual gas costs. . . . If these utilities want the opportunity to earn 8%, 9%, 10% or more on equity, there needs to be some risk involved. The 9% return needs to be earned not given to the investors! . . . The current process is cumbersome and error prone. Allowing another layer of automatic cost recovery will only further complicate the process.

5. Pg. 23, ln. 508-509; ln. 515-520.

Petitioners are attempting to . . . provide a speedup in expense recovery which reduces the proper incentives for good management of expenses; . . . provide a subsidy for reducing service quality through continued reductions of service personnel . . . provide an opportunity for less regulatory oversight responsibility and accountability.

EXHIBIT 2

**BAKER
DONELSON**
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November 24, 2003

Ms. Shilina Chatterjee
Mr. Vance Broemel
Office of Consumer Advocate and Protection Division
425 Fifth Avenue North
Nashville, TN 37202-0207

**Via Facsimile, Electronic Mail
and Regular U.S. Mail**

***Re: Petition of Chattanooga Gas Company, Nashville Gas Company, a Division of
Piedmont Natural Gas Company, Inc., and Atmos Energy Corporation for a
Declaratory Ruling Regarding the Collectibility of the Gas Cost Portion of
Uncollectible Accounts under the Purchase Gas Adjustment ("PGA") Rules ,
Docket No. 03-00209***

Dear Shilina:

This letter is in response to your correspondence dated November 13, 2003. You indicated that you were "in the process of supplementing" Atmos' data requests related to expert testimony that you intended to offer in this matter. To date, we have not received further discovery response supplementation. You also indicated that you had relied on various documents in Docket No. 97-00982, Docket No. 95-02258, Docket No. 99-00994, Docket No. 03-00313 and related tariffs for each of the Petitioners. However, you failed to identify the specific documents in each of the dockets and/or tariffs identified upon which you rely.

This response is insufficient in that there is no practical way Petitioners can determine which documents your expert purports to rely upon. In order for the Petitioners to adequately respond to many of the unsubstantiated contentions or statements raised by Mr. McCormack in his affidavits, you must identify specifically which documents he is relying upon. Accordingly, please properly supplement your response to Atmos' Data Request No. 11 on or before November 25, 2003 at 5:00 p.m.

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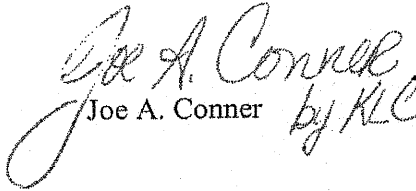
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Representative Office,
BDBC International, LLC

Ms. Shilina Chatterjee
November 10, 2003
Page 2

I must stress that without this information, Atmos and its fellow petitioners will be at a disadvantage and possibly unable to respond to the latest filings by the Consumer Advocate & Protection Division by the December 4th deadline. If you are unable to provide proper supplementation by November 25th at 5:00 p.m., we will have no alternative other than to file a motion to compel. You may contact me directly by calling my cell phone at (423) 605-2780 to make arrangements in regard to the production or to discuss this matter further.

Very truly yours,


Joe A. Conner *by KLC*

MSK:klc

cc: Ms. Billye Sanders
Mr. Jim Jeffries
Ms. Pat Childers
Mr. Bill Morris
Mr. Archie Hickerson

EXHIBIT 3

STATE OF TENNESSEE

Office of the Attorney General



PAUL G. SUMMERS
ATTORNEY GENERAL AND REPORTER

MAILING ADDRESS

P.O. BOX 20207
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November 25, 2003

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**RE: PETITION OF CHATTANOOGA GAS COMPANY, NASHVILLE GAS
COMPANY, A DIVISION OF PIEDMONT NATURAL GAS COMPANY, INC.,
ATMOS ENERGY CORPORATION FOR A DECLARATORY RULING
REGARDING THE COLLECTIBILITY OF THE GAS COST PORTION OF
UNCOLLECTIBLE ACCOUNTS UNDER THE PURCHASED GAS
ADJUSTMENT ("PGA") RULES
Docket No. 03-00209**

Dear Joe:

I am in receipt of your letter dated November 24, 2003 concerning supplemental discovery responses. Attached please find our supplemental discovery responses. We have filed same with the Tennessee Regulatory Authority ("TRA") as of this date.

I apologize for the confusion concerning the reference to various documents in Docket No. 97-00982 (*In Re Application for Rate Change by Chattanooga Gas Company*), Docket No. 95-02258 (*In Re Application of United Cities Gas Company, a Division of Atmos Energy Corporation for Rate Adjustment*), Docket No. 03-00313 (*Application by Nashville Gas Company, a Division of Piedmont Natural Gas Company, Inc. for an Adjustment of its Rates and Charges, the Approval of Revised Tariffs and Approval of Revised Service Regulations*) in our letter of November 13, 2003. For your convenience, we are attaching the documents to this letter. Please note that these documents were already filed with the TRA as exhibits attached to prior pleadings. All other documents have either been filed in this docket and/or served upon you.

At this time, this will conclude our supplemental responses to discovery. If you have any questions, please feel free to contact me at (615) 532-3382. Thank you.

Sincerely,



Shilina B. Chatterjee
Assistant Attorney General
(615) 532-3382

Enclosures

cc: D. Billye Sanders, Esq.
James H. Jeffries IV, Esq.

70902

IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:

**DISCOVERY REQUEST BY THE CONSUMER
ADVOCATE & PROTECTION DIVISION
UPON CHATTANOOGA GAS COMPANY,
NASHVILLE GAS COMPANY, A DIVISION
OF PIEDMONT NATURAL GAS COMPANY,
INC., AND UNITED CITIES GAS COMPANY,
A DIVISION OF ATMOS ENERGY
CORPORATION (collectively,
"PETITIONERS")**

DOCKET NO. 03-00209

SUPPLEMENTAL RESPONSES TO DISCOVERY REQUESTS OF ATMOS ENERGY CORPORATION BY THE CONSUMER ADVOCATE AND PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

To: Joe A. Conner, Esq.
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Waller, Lansden, Dortch & Davis, PLLC
511 Union Street, Suite 2100
Nashville, Tennessee 37219-1760

James H. Jeffries IV, Esq.
Jerry W. Amos, Esq.
Nelson, Mullins, Riley & Scarborough, L.L.P.
Bank of America Corporate Center, Suite 2400
100 North Tryon Street
Charlotte, North Carolina 28202-4000

**SUPPLEMENTAL DISCOVERY RESPONSES TO ATMOS ENERGY
CORPORATION'S DISCOVERY REQUESTS**

REQUEST # 11:

Please identify all experts you intend to call to testify in this matter, and with respect to each expert, provide the same information and/or documents that you request in your first data requests to the Petitioners, Data Requests Nos. 18-24.

RESPONSE:

As previously disclosed, Dan McCormac, CPA and/or Michael D. Chrysler may testify. The nature of their testimony has not been determined.

SUPPLEMENTAL RESPONSE:

At this time, the scope of Mr. McCormac's testimony is set forth in his affidavit filed in support of the Consumer Advocate's Reply Memorandum to Petitioners' Response in Opposition to the Motion for Summary Judgment. Additionally, due the continued preparation and analysis of the petitioners' responses to interrogatories, the full nature of their testimony has not been determined. The Consumer Advocate reserves the right to revise in light of further proceedings in this case.

REQUEST NO. 18:

Identify each person whom you expect to call as an expert witness at any hearing in this docket, and for each such expert witness:

- (a) identify the field in which the witness is to be offered as an expert;

RESPONSE:

Dan McCormac, CPA will testify as to the applicability of the PGA rule to recover

uncollectible accounts expense (NARUC Account No. 904).

SUPPLEMENTAL RESPONSE:

At this time, the scope of Mr McCormac's testimony is set forth in his affidavit filed in support of the Consumer Advocate's Reply Memorandum to Petitioners' Response in Opposition to the Motion for Summary Judgment. The Consumer Advocate reserves the right to revise this testimony in light of further proceedings in this case.

(b) provide complete background information, including the expert's current employer as well as his or her educational, professional and employment history, and qualifications within the field in which the witness is expected to testify, and identify all publications written or presentations presented in whole or in part by the witness;

RESPONSE:

See attached Exhibit A.

(c) provide the grounds (including without limitation any factual basis) for the opinions to which the witness is expected to testify, and provide a summary of the grounds for each such opinion;

RESPONSE:

The current PGA rule, current and prior practices, data supplied by petitioners, testimony and exhibits given before the PSC and/or TRA in prior proceedings.

(d) identify any matter in which the expert has testified (through deposition or otherwise) by specifying the name, docket number and forum of each case, the dates of the prior testimony and the subject of the prior testimony, and identify the transcripts of any such testimony;

RESPONSE:

We do not have a listing, however, testimony before the TRA should be on file at the TRA.

(e) identify for each such expert any person whom the expert consulted or otherwise communicated with in connection with his expected testimony;

RESPONSE:

Testimony has not been fully completed, however, he will likely consult with Attorney General staff members, employees of the applicants, and former employees of the applicants. Additionally, Mr. McCormac has spoken with Dwight Work and Larry Fleming.

(f) identify the terms of the retention or engagement of each expert including but not limited to the terms of any retention or engagement letters or agreements relating to his/her engagement, testimony, and opinions as well as the compensation to be paid for the testimony and opinions;

RESPONSE:

None anticipated other than through existing employment.

(g) identify all documents or things shown to, delivered to, received from, relied upon, or prepared by any expert witness, which are related to the witness(es)' expected testimony in this case, whether or not such documents are supportive of such testimony, including without limitation all documents or things provided to that expert for review in connection with testimony and opinions; and

RESPONSE:

Testimony has not been completed, however, the witness will likely rely on the responses

to our discovery requests, documents relating to gas costs, uncollectible expenses, and forfeited discounts filed in the most recent rate cases of the applicants, documents filed in this docket, existing TRA rules and regulations, and testimony presented to the PSC in rule making proceedings.

SUPPLEMENTAL RESPONSE:

In particular, the witness Dan McCormac will rely on the material relied upon by Archie Hickerson in his affidavit in support of Petitioners' Motion for Summary Judgment and documents produced by Petitioners.

(h) identify any exhibits to be used as a summary of or support for the testimony or opinions provided by the expert.

RESPONSE:

None have been completed, but may be provided with pre-filed testimony in this docket.

REQUEST NO. 19:

Identify and produce copies of any and all documents referred to or relied upon in responding to CAPD's discovery requests.

RESPONSE:

Documents produced by Petitioners in response to CAPD Discovery Requests..

REQUEST NO. 20:

Identify and produce all material provided to, reviewed by or produced by any expert or consultant retained by Petitioners' to testify or to provide information from which another expert will testify concerning this case.

RESPONSE:

See No. 19.

SUPPLEMENTAL RESPONSE:

In particular, the witness Dan McCormac will rely on the material relied upon by Archie Hickerson in his affidavit in support of Petitioners' Motion for Summary Judgment and documents produced by Petitioners.

REQUEST NO. 21:

Identify and produce all work papers of Petitioners' proposed experts, including but not limited to file notes, chart notes, tests, test results, interview and/or consult notes and all other file documentation that any of Petitioners' expert witnesses in any way used, created, generated or consulted by any of Petitioners' expert witnesses in connection with the evaluation, conclusions and opinion in this matter.

RESPONSE:

The CAPD objects to this interrogatory to the extent that it seeks any work product material. All exhibits (if any) filed with testimony will be supported by relevant supporting documents.

REQUEST NO. 22:

Identify and produce a copy of all trade articles, journals, treatises and publications of any kind in any way utilized or relied upon by any of Petitioners' proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in this matter.

RESPONSE:

See No. 21.

REQUEST NO. 23:

Identify and produce a copy of all documents which relate or pertain to any factual information provided to, gathered by, utilized or relied upon by any of Petitioners' proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in this matter.

RESPONSE:

See No. 21.

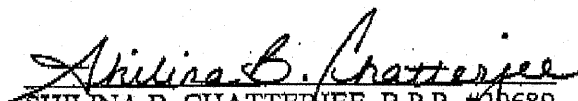
REQUEST NO. 24:

Identify and produce a copy of all articles, journals, books or speeches written by or co-written by any of Petitioners' expert witnesses, whether published or not.

RESPONSE:

No relevant material available.

RESPECTFULLY SUBMITTED,


SHILINA B. CHATTERJEE, B.P.R. #20689
Assistant Attorney General
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-3382

Dated: November 25, 2003

70047

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via hand delivery or facsimile on November 25, 2003

For Chattanooga Gas:

Larry Buie, General Manager
Chattanooga Gas Company
2207 Olan Mills Drive
Chattanooga, TN 37421
(423) 490-4300

Archie Hickerson
Manager-Rates
AGL Resources
Location 1686
P.O. Box 4569
Atlanta, GA 30302-4569
(404) 584-3855

D. Billye Sanders
Waller, Lansden, Dortch & Davis, PLLC
511 Union Street, Suite 2100
Nashville, TN 37219-1760
(615) 244-6380

For Nashville Gas:

David Carpenter
Director-Rates
Piedmont Natural Gas Company, Inc.
P.O. Box 33068
Charlotte, NC 28233
(704) 364-3120


Bill R. Morris
Director- Corporate Planning & Development Services
Piedmont Natural Gas Company, Inc.
P.O. Box 33068
Charlotte, NC 28233
(704) 364-3120

James H. Jeffries IV, Esq.
Jerry W. Amos
Nelson, Mullins, Riley & Scarborough, L.L.P.
Bank of America Corporate Center, Suite 2400
100 North Tryon Street
Charlotte, NC 28202
(704) 417-3000

For United Cities Gas:

Patricia Childers
Vice President of Regulatory Affairs
United Cities Gas Company
Atmos Energy Corporation
810 Crescent Centre Drive, Suite 600
Franklin, TN 37067-6226
(615) 771-8332

Joe A. Conner, Esq.
Baker, Donelson, Bearman & Caldwell
1800 Republic Centre
633 Chestnut Street
Chattanooga, Tennessee 37450-1800
(423) 756-2010


SHILINA B. CHATTERJEE
Assistant Attorney General

70047

EXHIBIT A

Daniel W. McCormac**1606 Shackleford Rd.
Nashville, TN 37215****EXPERIENCE:****2003 to Present Tennessee Attorney General's Office - Coordinator of Analysts,
Consumer Advocate & Protection Division**

*Provide management analysis and expert testimony as needed in major rate cases, earnings reviews, tariff filings, rule changes, and other investigations.

2001 to 2003 Tennessee Regulatory Authority - Chief of Energy and Water Division

*Responsible for review of all tariff filings, review of rate adjustment filings, audits, and responses to inquiries and complaints on all accounting, tariff and ratemaking matters in the gas, electric, water and wastewater industries. Advised Directors on all material and contested matters.

**1994 to 2001 Tennessee Attorney General's Office - Senior Regulatory Analyst
Consumer Advocate & Protection Division**

*Provided management analysis and expert testimony as needed in major rate cases, earning reviews, tariff filings, rule changes, and other investigations.

**1987 to 1994 Tennessee Public Service Commission (TPSC) - Manager of Revenue
Requirements and Special Studies**

*Supervised seven professionals, coordinated rate cases, earnings reviews, and other financial investigations of telephone, gas electric, water and sewer utilities; Provided expert testimony on major issues.

1984 to 1987 Wilson, Work Fossett & Greer, CPA's - Supervisor

*Consulted and assisted public utilities in preparing rate cases, cost of capital studies, cost of service studies, Purchased Gas Adjustment rule proposal, capital structure study, valuation study, computer software, research

1983 to 1984 TPSC - Technical Assistant to Commissioners

*Reviewed and summarize all rate case filings, provide Commissioners with research reports, prepare issues lists and analyze those issues; assisted in administrative accounting and budgeting by computerizing office records.

1976 to 1983 TPSC - Financial Analyst/Supervisor

*Audited and analyzed rate case filings, testified and prepared exhibits for the TPSC.

**EDUCATION &
CERTIFICATION**

1973-1976 David Lipscomb University, B.S., Accounting

1979 Certified Public Accountant

1981 TSU, Business Finance, Business Management

Various Numerous conferences, schools, and training courses on taxes, accounting, auditing, computer software, depreciation, management development, mediation skills, and utility ratemaking theory

TRA #97-00982

CA Exhibit

Schedule 14

Chattanooga Gas Company
Revenue Conversion Factor
For the 12 Months Ending September 30, 1998

<u>Line No.</u>		<u>Amount</u>	<u>Balance</u>
1	Operating Revenues		1.000000
2	Forfeited Discounts	0.006837	<u>0.006837</u>
3	Balance		1.006837
4	Uncollectible Ratio	0.001952	<u>0.001965</u>
5	Balance		1.004872
6	State Excise Tax	0.060000	<u>0.060292</u>
7	Balance		0.944679
8	Federal Income Tax	0.350000	<u>0.330603</u>
9	Balance		0.613977
10	Revenue Conversion Factor (Line 1 / Line 9)		<u><u>1.628727</u></u>

Nashville Gas Company
Revenue Conversion Factor
For the 12 Months Ending October 31, 2004

<u>Line No.</u>		<u>Amount</u>	<u>Balance</u>
1	Operating Revenues		1.000000
2	Add: Forfeited Discounts	0.007435 A/	<u>0.007435</u>
3	Balance		1.007435
4	Uncollectible Ratio	0.004534 B/	<u>0.004568</u>
5	Balance		1.002867
6	State Excise Tax	0.060000 C/	<u>0.060172</u>
7	Balance		0.942695
8	Federal Income Tax	0.350000 C/	<u>0.329943</u>
9	Balance		0.612752
10	Revenue Conversion Factor (1 / Line 9)		<u>1.631982</u>

A/ Filing Guidelines Item 25, P. 42

B/ Filing Guidelines Item 25, P. 47 adjusted to include all uncollectibles (\$2,132,710 / \$470,411,854)

C/ Statutory rate

Atmos

United Cities Gas Company
Revenue Conversion Factor
For the 12 Months Ending November 30, 1998

95-02258
CA Exhibit
Schedule 11

<u>Line No.</u>		<u>Amount</u>	<u>Balance</u>
1	Operating Revenues		1.000000
2	Forfeited Discounts	0.004266	0.004266
3	Balance		1.004266
4	Uncollectible Ratio	0.001237	0.001242
5	Balance		1.003024
6	State Excise Tax	0.060000	0.060181
7	Balance		0.942842
8	Federal Income Tax	0.350000	0.329995
9	Balance		0.612847
10	Revenue Conversion Factor (Line 1 / Line 9)		1.631727

EXHIBIT 4

1 **BEFORE THE**
2 **TENNESSEE REGULATORY AUTHORITY**

3 **SECOND AFFIDAVIT OF**
4 **ARCHIE R. HICKERSON**

5 **PETITION OF CHATTANOOGA GAS COMPANY, NASHVILLE GAS**
6 **COMPANY, A DIVISION OF PIEDMONT NATURAL GAS COMPANY, INC.,**
7 **AND ATMOS ENERGY CORPORATION FOR A DECLARTORY RULING**
8 **REGARDING THE COLLECTIBILITY OF THE GAS COSTS PORTION OF**
9 **UNCOLLECTIBLE ACCOUNTS UNDER THE PURCHASED GAS**
10 **ADJUSTMENT ("PGA") RULES**

11 **DOCKET NO. 03-00209**
12
13

14 I, Archie R. Hickerson, being duly sworn do hereby state the following:

15 1. I am Manager-Rates for AGL Service Company, which provides joint
16 services to AGL Resources' three operating utilities, Chattanooga Gas Company,
17 Atlanta Gas Light Company, and Virginia Natural Gas Company.

18 2. My business address is Location 1686, P.O. Box 4569, Atlanta, GA
19 30302-4569.

20 3. I was responsible for collecting and providing data that was submitted
21 by Chattanooga Gas Company to the Staff of the Tennessee Regulatory Authority
22 and the Consumer Advocate and Protection Division in Docket 01-00802,
23 "Application of United Cities Gas Company, a Division of Atmos Energy, Inc.,
24 Nashville Gas Company, a Division of Piedmont Natural Gas Company, Inc. and
25 the Chattanooga Gas Company for Approval of Deferred Accounting."

1 4. I worked with the representatives of Piedmont Natural Gas Company,
2 and Atmos Energy, in the preparation of the initial and amended motions filed in
3 Docket 01-00802.

4 5. I worked with the representatives of Piedmont Natural Gas Company,
5 Atmos Energy, and members of the Tennessee Regulatory Authority's Staff in
6 developing the procedures for identifying, accounting for, and tracking the amount
7 of uncollected gas cost to be recovered under TRA Administrative Rule 1220-4-.7
8 "Purchased Gas Adjustment Rules."

9 6. Prior to the filing of the Second Amended and Restated Joint
10 Application for Approval of Treatment of Uncollectible Accounts on October 19,
11 2001 the Staff of the Tennessee Regulatory Authority's Energy and Water Division
12 provided directions on the procedures that were to be used to identify the amount of
13 uncollected gas cost that was to be deferred and collected through the PGA/ACA
14 mechanism.

15 7. The directions were provided in the form of e-mail messages from Mr.
16 David McClanahan, of the TRA Staff, and an attached Microsoft Excel Spreadsheet
17 that was to be used by the three utilities to quantify the amount of the uncollected
18 gas cost to be deferred.

19 8. The messages were sent to Mr. Mike Chrysler at the Consumer
20 Advocate and Protection Division, Mr. Bill Morris at Piedmont Energy, Ms. Patricia
21 Childers at Atmos Energy and me.

1 9. The first message was sent Tue 10/16/2001 11:41 a.m. The second
2 e-mail was sent Tue 10/16/2001 11:50 a.m., and the third e-mail was sent Tue
3 10/16/2001 12:35 p.m. Copies of the e-mail messages from Mr. David McClanahan
4 are attached, as Appendix A.

5 10. While Mr. McClanahan referenced the attachment in the first
6 message, he failed to attach the spreadsheet. The first e-mail message was:

7 “In view of upcoming revised petition, please complete the
8 attached format.

9 This will enable everyone to use the same format and
10 to get comparable numbers. Please send back ASAP!

11
12 Thanks,
13 Dave”
14

15 11. The second message to which the spreadsheet was attached stated:

16 “Sorry about that! I got a phone call and got mixed up.”

17 12. Third message was:

18 “Dan just told me that as per the phone call yesterday, it
19 had been decided to include industrial customers as
20 opposed to just residential and commercial.
21 So, just add new columns to your worksheet to include
22 industrial customers in your calculations. Sorry, I did not
23 know.
24

25 Dave”
26

27 13. My duties with AGL Services Company require that I periodically
28 review wholesale gas rates and file the appropriate PGA factors with the Tennessee
29 Regulatory Authority.

1 14. Appendix B to this Affidavit includes a chart of the wellhead price of
2 gas from January 1990 through May 2003 as presented on the U. S. Department of
3 Energy's Energy Information Administration ("EIA") website.

4 15. As shown in Appendix B, the wellhead cost of gas has become much
5 more volatile in recent years. As published by the EIA the price per MCF remained
6 under \$3.00 from October 1997 until May 2000. While there was some fluctuation,
7 the price in general continued to rise until it peaked at \$6.82 in January 2001.
8 Except for April, November and December 2001, the wellhead price continued to
9 decline until February 2002. The price then remained in the \$2.50 to \$3.00 range
10 until October 2002 it again became to increase until it again reached a peak at
11 \$6.62 in March 2003.

12 During this period Chattanooga Gas Company's uncollectible accounts as
13 measured by net write-offs followed a similar pattern with somewhat of a delay.
14 The net write-offs for the twelve months ended June 2000 totaled \$223,362 and
15 increased to \$578,811 for the twelve months ended June 2001. The uncollectible
16 accounts continued to increase until December 2001 when the annual amount
17 peaked at \$1,750,942. Beginning at that, time the annual net write-offs declined to
18 approximately \$300,000 until March 2003 when the annual amount again began to
19 increase. At June 2003, the annual net write-offs stood at \$518,899. The
20 uncollectible account expense included in Chattanooga Gas Company's last rate
21 case was \$138,006. This net write-off data was provided in response to the CAPD's
22 July 28, 2003 Discovery Request, Item 1. The wellhead price of gas is available at

1 <http://tonto.eia.doe.gov/dnav/ng/hist/n9190us3M.htm>. The amount included in
2 Chattanooga Gas Company's last rate case for uncollectible accounts is stated on
3 page 33 of the October 7, 1998 Order in TRA Docket No. 97-00982.

4 16. While the National Association of Regulatory Utility Commissioners
5 (NARUC) has published the Uniform System of Accounts (USOA) for Gas Utilities,
6 it cannot and does not impose accounting requirements on the TRA or the utilities
7 under the jurisdiction of the TRA. The NARUC USOA is a regulatory reporting tool
8 developed through the cooperative efforts of its members to provide reliable and
9 consistent financial data for use by agencies such as the TRA in the oversight of
10 utilities under its jurisdiction. The USOA is not a static instrument, but is subject
11 to interpretation and modification as necessary to meet the needs of the individual
12 regulatory agency. How this tool is used, interpreted, and/or modified is the
13 responsibility of the regulatory agency that utilizes the data. In Tennessee, the
14 ultimate responsibility for prescribing and interpreting the accounting
15 requirements for reporting and ratemaking purposes rests with the TRA. As a
16 result, the TRA can and has modified and interpreted the USOA to conform to its
17 regulatory needs.

18 An example of a TRA interpretation and/or modification is provided in the
19 PGA Rule at 1220-4-7-.04. Gas Cost Accounting

20 While the NARUC USOA Account 807 -Purchased Gas Expense provides
21 that:

- 22 A. This account shall include expenses incurred directly in connection
23 with the purchase of gas for resale.

1 TRA Rule 1220-4-7-.04 Gas Cost Accounting that provides:

2
3
4 To appropriately match revenues with cost of purchased gas as
5 contemplated under these Rules, the Company shall originally record
6 the cost of purchased gas in a "Deferred Gas Cost" account. Monthly,
7 the Company shall debit "Natural Gas Purchases" with an amount
8 equal to any gas cost component included in the Company's base tariff
9 rates (base rate) plus the PGA rate, as calculated hereunder,
10 multiplied by the appropriate volumes sold or billed to customers. The
11 corresponding monthly credit entry shall be made to the "Deferred Gas
12 Cost" account.
13

14 While the TRA's requirement that gas cost originally be recorded in the
15 "Deferred Gas Cost" account differs from the USOA requirement that such cost be
16 recorded in Account 807, it does not violate accounting requirements. The TRA has
17 determined the appropriate procedure to account for such cost in accordance with
18 its regulatory process.

19 Another example the TRA's departure from the NARUC USOA is the
20 treatment of PGA revenue and gas cost in ratemaking proceedings.

21 The NARUC USOA Account 480- Residential Sales provides:

22 A. This account shall include the net billing for gas
23 supplied for residential or domestic purposes.
24

25 Similar wording is included in the other gas sales revenue accounts.

26 However, in developing the income statements used to evaluate gas utilities'
27 rates, the TRA routinely excludes the revenue that results from the billing of the
28 PGA factor and the related gas cost. Since the TRA's rules provide that Gas Cost be
29 collected under the PGA/ACA mechanism this procedure is appropriate. While this

1 procedure differs from the procedure outlined in the NARUC USOA, it is not a
2 violation of accounting requirements.

3 17. Daniel McCormac makes certain statements in his Affidavit filed in
4 this docket that are not substantiated. Also his conclusions/opinions based on those
5 unsubstantiated facts are erroneous. For example, on page 19 of his Affidavit he
6 states that Chattanooga has reduced service employees from 37 in 1996 to 30 in
7 2003. This is not correct. In the fourth quarter of 1996 Chattanooga Gas Company
8 had 36 customer service employee equivalents (22 Field Representatives, 4 Meter
9 Readers, 1 Meter Reader Supervisor, one Service Supervisor and 8 equivalent Call
10 Center Employees). During the second quarter 2003, Chattanooga Gas Company
11 had a total of 34 customer service employee equivalents (13 Field Service
12 Representatives, 8 Meter Readers, 1 Service Supervisor, and an average of 12
13 equivalent Call Center Employees). This information is from Chattanooga Gas
14 Company's response to the Consumer Advocate and Protection Division's Discovery
15 Request Issued July 28, 2003, Request No. 5.

16 18. Mr. McCormac on page 17, lines 366-372 of his affidavit asserted that
17 during the winter of 2000-2001, some of the petitioners did not have sufficient
18 employees to follow the established disconnection and connection policies and that
19 as result of the shortage of employees, some nonpaying consumers were left on the
20 system through the summer of 2001. Mr. McCormac provided no substantiation for
21 these statements, nor did he identify the specific petitioners to which they were
22 directed.

1 Chattanooga Gas Company's increase in uncollectible accounts was not the result
2 of the Company having an insufficient number of employees to follow the
3 established disconnection and connection policies. Customers who were not paying
4 their gas bills were not allowed to continue to take gas through the summer of 2001
5 as a result of a lack of employees. As stated in its response to the CAPD's Discovery
6 Request issued July 28, 2003, Request Item No. 10., the reason for the increase in
7 uncollectible accounts was because of the rapid increase in the cost of gas during the
8 winter of 2000-2001 and the TRA's resultant request that Chattanooga Gas and the
9 other major local distribution companies in Tennessee work with their customers to
10 avoid shutting off service. Chattanooga Gas Company, consequently extended the
11 length of credit arrangements, eased deposit requirements, and worked with
12 customers having difficulty paying their gas bills. Following the increase in gas cost
13 and the efforts taken to work with the customers as requested by the TRA,
14 Chattanooga Gas Company experienced a material increase in uncollectible
15 accounts that was addressed in Docket 01-00802.

16 19. Contrary to the statements of Mr. McCormac on page 15, line 322 ,
17 and pp. 23 line 519-520, the recovery of the Gas Costs portion of uncollectible
18 accounts through the PGA/ACA mechanism would not result in less accountability
19 and regulatory oversight than the rate making process. The collections would be
20 subject to *more* regulatory oversight because such collections would be subject to the
21 TRA's annual review of cost recovery in accordance with TRA Rule 1220-4-7-.03(2).

1 The result would be an annual review instead of a review only during a formal
2 general rate proceeding.

3

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22

Archie R. Hickerson

Archie R. Hickerson

State of Georgia

County of Henry

Sworn and subscribed before me this 3rd day of
Dec., 2003.

Lucy Blizzard

Notary Public

My Commission expires

Lucy Blizzard
Notary Public, Henry County, Georgia
My Commission Expires April 16, 2004

APPENDIX A



Deleted Attachment
Report

-----Original Message-----

From: "David McClanahan" <dmcclanahan@mail.state.tn.us>
Sent: Tuesday, October 16, 2001 11:41 AM
To: ahickers.POADM.AGLATL; bill.morris@Piedmontng.com;
mchrysler@mail.state.tn.us; patricia.childers@unitedcitiesgas.com
Subject: Format for Determining Deferred Write-off Amounts

In view of upcoming revised petition, please complete the attached
format.
This will enable everyone to use the same format and to get comparable
numbers.
Please send back ASAP!

Thanks,
Dave

<<Deleted Attachment Report>>



Uncollectible
Format.xls



Deleted Attachment
Report

-----Original Message-----

From: "David McClanahan" <dmcclanahan@mail.state.tn.us>
Sent: Tuesday, October 16, 2001 11:50 AM
To: ahickers.POADM.AGLATL; bill.morris@Piedmontng.com;
mchrysler@mail.state.tn.us; patricia.childers@unitedcitiesgas.com
Subject: Sorry about that! I got a phone call and got mixed up.

Sorry about that! I got a phone call and got mixed up.

<<Uncollectible Format.xls>> <<Deleted Attachment Report>>

DEFERRED UNCOLLECTIBLES
PERIOD

	Residential Revenue	Commercial Revenue	Residential Volumes	Commercial Volumes	Firm PGA	Total PGA Recoveries Residential	Gas Cost Res %	Total PGA Recoveries Commercial	Gas Cost Comm %	Assumed PGA Recoveries
Nov-00										
Dec-00										
1-Jan										
1-Feb										
1-Mar										
Total	\$0.00	\$0.00	0	0	0	\$	-	-	-	#DIV/0!

Requested write-off 9/30/01 \$

Gas Cost #DIV/0! #DIV/0!

Less: Allowance provided
by rates in last case

#DIV/0!

Net Amount
Estimated Recoveries
through 12/31/02

#DIV/0!

Total to be Deferred

#DIV/0!

Ccf/Th Sales 11/1/01 PGA
Est. Recovery \$/Ccf/Th

#DIV/0!



Deleted Attachment
Report

-----Original Message-----

From: "David McClanahan" <dmcclanahan@mail.state.tn.us>
Sent: Tuesday, October 16, 2001 12:35 PM
To: ahickers.POADM.AGLATL; bill.morris@piedmontng.com;
mchrysler@mail.state.tn.us; patricia.childers@unitedcitiesgas.com
Subject: Industrial customers

Dan just told me that as per the phone call yesterday, it had been decided to include industrial customers as opposed to just residential and commercial. So, just add new columns to your worksheet to include industrial customers in your calculations. Sorry, I did not know.

Dave

<<Deleted Attachment Report>>

APPENDIX B

U.S. NATURAL GAS WELLHEAD PRICE (\$/MCF)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Jan	2.23	1.96	1.74	2.03	1.93	1.62	2.05	3.40	1.96	1.85	2.60	6.82	2.35	4.47
Feb	1.85	1.62	1.26	1.76	1.88	1.48	1.89	2.49	1.96	1.77	2.73	5.08	2.14	5.45
Mar	1.55	1.49	1.35	2.00	1.93	1.47	1.95	1.79	2.06	1.70	2.66	4.37	2.52	6.69
Apr	1.49	1.50	1.42	2.06	1.91	1.52	2.08	1.81	2.16	1.90	2.86	4.52	3.02	4.71
May	1.47	1.48	1.51	2.18	2.00	1.55	2.01	2.00	2.04	2.17	3.04	4.36	3.01	4.97
Jun	1.48	1.43	1.62	1.98	1.80	1.58	2.08	2.08	1.91	2.14	3.77	3.80	2.94	
Jul	1.49	1.34	1.55	1.99	1.81	1.43	2.25	2.00	2.09	2.20	3.84	3.36	2.89	
Aug	1.51	1.43	1.84	2.04	1.83	1.43	2.10	2.08	1.82	2.51	3.73	3.34	2.77	
Sep	1.56	1.59	1.92	2.09	1.78	1.52	1.85	2.33	1.70	2.62	4.26	2.94	2.98	
Oct	1.76	1.82	2.38	2.02	1.70	1.54	1.94	2.68	1.86	2.52	4.58	2.81	3.35	
Nov	1.94	1.89	2.13	2.03	1.75	1.61	2.50	2.92	1.94	2.68	4.40	3.42	3.59	
Dec	2.04	2.00	2.07	2.15	1.88	1.84	3.26	2.28	1.95	2.24	5.77	3.44	3.84	

Source: EIA <http://tonto.eia.doe.gov/dnav/ng/hist/n9190us3M.htm>

Natural Gas
NAVIGATOR

View History: ☒ Monthly ☐ Annual

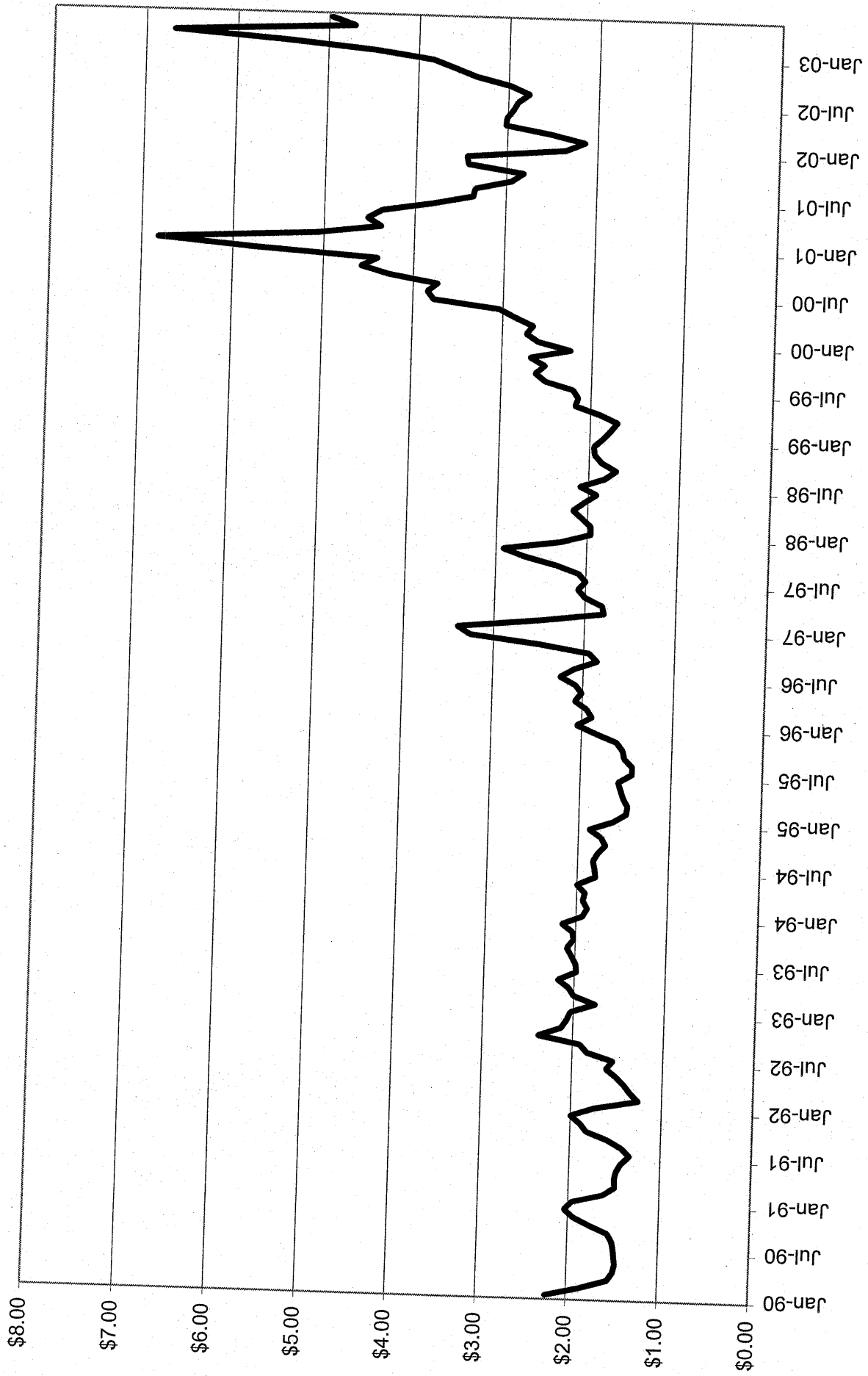
U.S. Natural Gas Wellhead Price (\$/Mcf)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1973	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
1974	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
1975	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
1976	0.54	0.54	0.54	0.55	0.55	0.58	0.58	0.6	0.6	0.62	0.63	0.64
1977	0.67	0.71	0.75	0.77	0.77	0.82	0.83	0.82	0.83	0.84	0.83	0.84
1978	0.87	0.88	0.89	0.88	0.91	0.91	0.89	0.91	0.92	0.92	0.93	0.96
1979	1.02	1.05	1.1	1.11	1.15	1.17	1.2	1.24	1.24	1.28	1.29	1.31
1980	1.37	1.42	1.46	1.51	1.56	1.57	1.64	1.64	1.69	1.71	1.76	1.74
1981	1.77	1.81	1.86	1.93	1.95	1.95	2.01	2.02	2.08	2.11	2.15	2.16
1982	2.23	2.3	2.35	2.4	2.45	2.45	2.47	2.53	2.56	2.6	2.62	2.62
1983	2.66	2.66	2.58	2.53	2.53	2.59	2.52	2.58	2.67	2.58	2.6	2.61
1984	2.67	2.71	2.67	2.64	2.67	2.7	2.68	2.69	2.62	2.63	2.61	2.57
1985	2.64	2.71	2.62	2.64	2.53	2.58	2.51	2.47	2.42	2.37	2.36	2.28
1986	2.28	2.26	2.16	2.1	1.96	1.85	1.8	1.77	1.78	1.73	1.77	1.76
1987	1.74	1.73	1.73	1.69	1.65	1.65	1.66	1.63	1.56	1.57	1.64	1.7
1988	1.96	1.84	1.7	1.59	1.52	1.53	1.56	1.62	1.53	1.68	1.76	1.89
1989	1.99	1.81	1.69	1.56	1.61	1.65	1.65	1.61	1.55	1.58	1.66	1.92
1990	2.23	1.85	1.55	1.49	1.47	1.48	1.49	1.51	1.56	1.76	1.94	2.04
1991	1.96	1.62	1.49	1.5	1.48	1.43	1.34	1.43	1.59	1.82	1.89	2
1992	1.74	1.26	1.35	1.42	1.51	1.62	1.55	1.84	1.92	2.38	2.13	2.07
1993	2.03	1.76	2	2.06	2.18	1.98	1.99	2.04	2.09	2.02	2.03	2.15
1994	1.93	1.88	1.93	1.91	2	1.8	1.81	1.83	1.78	1.7	1.75	1.88
1995	1.62	1.48	1.47	1.52	1.55	1.58	1.43	1.43	1.52	1.54	1.61	1.84
1996	2.05	1.89	1.95	2.08	2.01	2.08	2.25	2.1	1.85	1.94	2.5	3.26
1997	3.4	2.49	1.79	1.81	2	2.08	2	2.08	2.33	2.68	2.92	2.28
1998	1.96	1.96	2.06	2.16	2.04	1.91	2.09	1.82	1.7	1.86	1.94	1.95
1999	1.85	1.77	1.7	1.9	2.17	2.14	2.2	2.51	2.62	2.52	2.68	2.24
2000	2.6	2.73	2.66	2.86	3.04	3.77	3.84	3.73	4.26	4.58	4.4	5.77
2001	6.82	5.08	4.37	4.52	4.36	3.8	3.36	3.34	2.94	2.81	3.42	3.44
2002	2.35	2.14	2.52	3.02	3.01	2.94	2.89	2.77	2.98	3.35	3.59	3.84
2003	4.47	5.45	6.69	4.71	4.97							

Updated on
10/07/03

Source:
U.S.
Energy
Information
Administration

U.S. NATURAL GAS
WELLHEAD PRICE (\$/MCF)

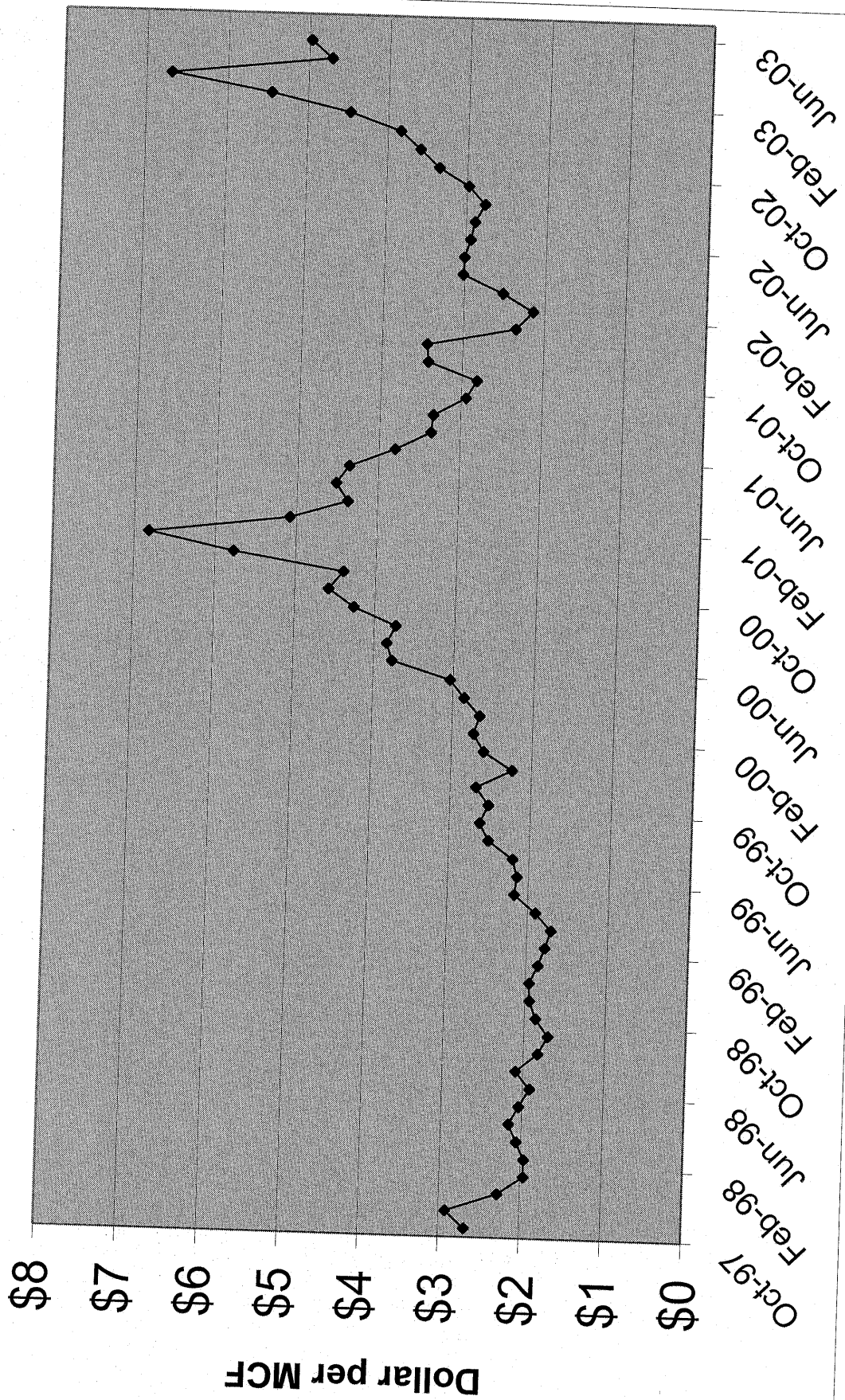


Chattanooga Gas Company

Net Write-Offs I(Response to Item 1 of CAPD July 28,2003 Discovery Request				Well Head Cost of Gas (EIA) \$ /MCF		12 months to Date Net Write-Offs
Oct-97	\$	(10,799)	\$	2.68		
Nov-97		(23,155)		2.92		
Dec-97		(20,209)		2.28		
Jan-98		(16,690)		1.96		
Feb-98		(7,665)		1.96		
Mar-98		3,975		2.06		
Apr-98		40,931		2.16		
May-98		34,093		2.04		
Jun-98		139,229		1.91		
Jul-98		69,138		2.09		
Aug-98		44,960		1.82		
Sep-98		4,356		1.70		
Oct-98		(5,831)		1.86		\$ 258,163
Nov-98		(27,494)		1.94		\$ 263,131
Dec-98		(8,006)		1.95		\$ 258,793
Jan-99		(5,665)		1.85		\$ 270,996
Feb-99		(1,612)		1.77		\$ 282,021
Mar-99		6,894		1.70		\$ 288,074
Apr-99		14,891		1.90		\$ 290,993
May-99		37,201		2.17		\$ 264,953
Jun-99		50,722		2.14		\$ 268,060
Jul-99		28,344		2.20		\$ 179,554
Aug-99		75,626		2.51		\$ 138,760
Sep-99		33,106		2.62		\$ 169,426
Oct-99		(61,216)		2.52		\$ 198,176
Nov-99		(15,543)		2.68		\$ 142,791
Dec-99		660		2.24		\$ 154,742
Jan-00		(1,530)		2.60		\$ 163,408
Feb-00		2,566		2.73		\$ 167,544
Mar-00		51,656		2.66		\$ 171,722
Apr-00		(35,780)		2.86		\$ 216,485
May-00		39,796		3.04		\$ 165,813
Jun-00		105,676		3.77		\$ 168,408
Jul-00		47,055		3.84		\$ 223,362
Aug-00		121,808		3.73		\$ 242,073
Sep-00		37,376		4.26		\$ 288,255
Oct-00		(24,861)		4.58		\$ 292,526
Nov-00		19,817		4.40		\$ 328,881
Dec-00		28,263		5.77		\$ 364,240
Jan-01		12,968		6.82		\$ 391,843
Feb-01		11,312		5.08		\$ 406,341
						\$ 415,086

Mar-01	3,017	4.37	\$ 366,447
Apr-01	49,786	4.52	\$ 452,013
May-01	123,832	4.36	\$ 536,048
Jun-01	148,439	3.80	\$ 578,811
Jul-01	369,890	3.36	\$ 901,646
Aug-01	916,122	3.34	\$ 1,695,960
Sep-01	57,750	2.94	\$ 1,716,333
Oct-01	727	2.81	\$ 1,741,921
Nov-01	12,703	3.42	\$ 1,734,807
Dec-01	44,398	3.44	\$ 1,750,942
Jan-02	(14,382)	2.35	\$ 1,723,592
Feb-02	2,805	2.14	\$ 1,715,085
Mar-02	(2,934)	2.52	\$ 1,709,134
Apr-02	16,957	3.02	\$ 1,676,305
May-02	45,446	3.01	\$ 1,597,920
Jun-02	85,587	2.94	\$ 1,535,068
Jul-02	122,751	2.89	\$ 1,287,928
Aug-02	68,009	2.77	\$ 439,815
Sep-02	51,113	2.98	\$ 433,179
Oct-02	(23,134)	3.35	\$ 409,318
Nov-02	(38,829)	3.59	\$ 357,786
Dec-02	(13,041)	3.84	\$ 300,346
Jan-03	(8,098)	4.47	\$ 306,630
Feb-03	(1,237)	5.45	\$ 302,588
Mar-03	24,116	6.69	\$ 329,638
Apr-03	35,837	4.71	\$ 348,518
May-03	92,941	4.97	\$ 396,013
Jun-03	208,473		\$ 518,899

Well Head Cost of Gas



12 Months to Date Net Write-Offs

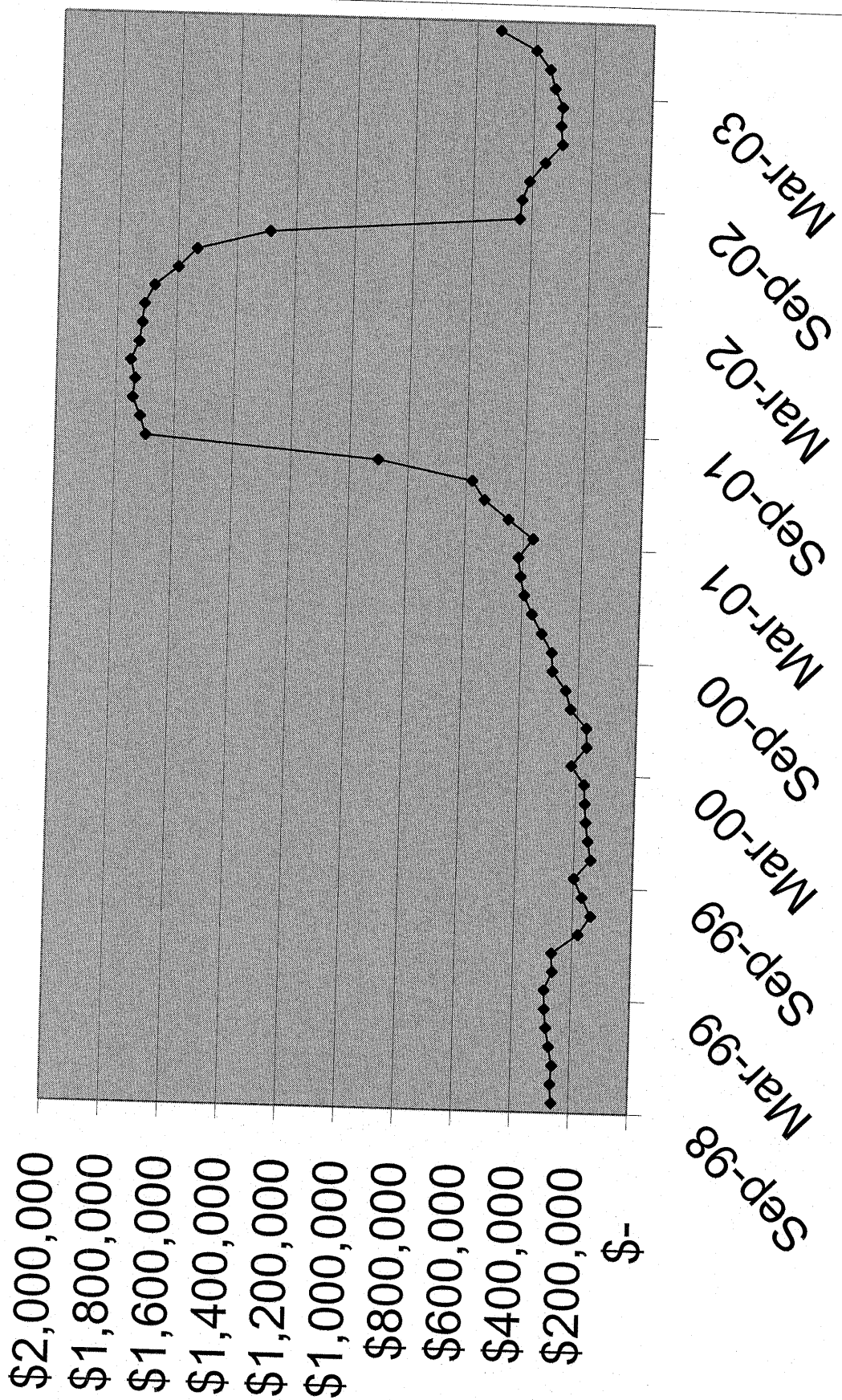


EXHIBIT 5

1 **BEFORE THE**
2 **TENNESSEE REGULATORY AUTHORITY**

3 **AFFIDAVIT OF**
4 **PATRICIA J. CHILDERS**

5 **PETITION OF CHATTANOOGA GAS COMPANY, NASHVILLE**
6 **GAS COMPANY, A DIVISION OF PIEDMONT NATURAL GAS**
7 **COMPANY, INC., AND ATMOS ENERGY CORPORATION FOR A**
8 **DECLARATORY RULING REGARDING THE COLLECTIBILITY**
9 **OF THE GAS COSTS PORTION OF UNCOLLECTIBLE**
10 **ACCOUNTS UNDER THE PURCHASED GAS ADJUSTMENT**
11 **("PGA") RULES**

12 **DOCKET NO. 03-00209**

13 **AFFIDAVIT OF PATRICIA J. CHILDERS**

14
15
16
17
18
19 **Before the undersigned notary public personally appeared Patricia J.**
20 **Childers, who after being duly sworn, stated as follow:**

21
22
23 1. My name is Patricia J. Childers. I have personal knowledge of all matters stated
24 herein and if called upon would and could testify competently thereto.

25
26 2. I am employed by Atmos Energy Corporation as Vice President of Rates &
27 Regulatory Affairs for the Mid States Division. Mid States Division includes the
28 operations of Atmos' service areas in Tennessee.

29
30 3. I have a BS degree in Business Administration from Middle Tennessee State
31 University. I have been employed with Atmos' (formerly United Cities Gas
32 Company) since November 1979. My experience has been in Gas Supply, Rates and
33 Regulatory Affairs. I have testified previously before the Tennessee Public Service
34 Commission and the Tennessee Regulatory Authority on behalf of Atmos on various
35 regulatory matters.

36
37 4. I am submitting this affidavit in response to various statements made in the
38 affidavit of Mr. Daniel W. McCormac filed by the CAPD in response to the
39 Petitioners' Motion for Summary Judgment in this proceeding?

40
41 5. On line 102 of his affidavit, Mr. McCormac states that the "petitioners are asking
42 the [TRA] to treat the Uncollectible Accounts expense account as if it were a gas
43 cost...". This is incorrect. The petitioners are only seeking recovery through the

1 PGA of the "gas cost" portion reflected in the Uncollectible Accounts. The
2 petitioners are not seeking recovery their margin loss.

3
4 6. On lines 198-200 of his affidavit, Mr. McCormac states that "[t]here is no detailed
5 separation in the accounts to divide Uncollectible Accounts into gas and other. Such
6 a separation can only be estimated." It is simply incorrect for Mr. McCormac to
7 assume that the gas cost portion of the Uncollectible Accounts cannot be separated
8 and accurately calculated. In fact, Mr. McCormac was Chief of the Energy and
9 Water Division of the TRA during Docket No. 01-00802 in which his staff agreed
10 with the method of calculating the recovery of the gas cost component of the
11 Uncollectible Accounts through the PGA mechanism. In Docket No. 01-00802, Mr.
12 McCormac did not raise the objections to recovery of the gas cost portion of the
13 Uncollectible Accounts that he has asserted in this proceeding.

14
15 7. Contrary to Mr. McCormac's statement on line 191 of his affidavit, once billed,
16 the total bill **does not** become revenue to the company. The bill is a receivable but
17 does not become revenue until it is collected. If it is not collected, the company does
18 not recover the total cost of the gas.

19
20 8. On lines 234-238, Mr. McCormac is once again confusing "billing" with
21 "recovery" of total gas costs. The Petitioners only want the recovery, or collection,
22 of gas costs one time. But on uncollectible accounts, this hasn't happened. So to say
23 that the Petitioners are trying to recover or collect gas costs more than once is just
24 not a supportable statement. The statement about billing twice raises an interesting
25 point. The Company, yes, will show the PGA revenue billed customers, for January
26 as an example, only once. But, the billing for January gas cost will occur more than
27 once. First, in January through the GCA estimate. Second, through a future ACA
28 factor, and possibly even further for the residual ACA balance. The point is that the
29 Company will continue to include recoverable gas costs in the PGA until those costs
30 are recovered.

31
32 9. Since the proceeding in Docket 01-00820, Atmos has continued to experience
33 increased levels of bad debt expense in Tennessee which is attributable in large part
34 to high gas prices which the company cannot control. Although these prices have
35 not reached the magnitude as those experienced in 2000-2001, they have resulted in
36 increased levels of bad debt.

37
38 10. Mr. McCormac suggests in his affidavit (Page 16, beginning with line 358) that
39 if the utilities' position was upheld that the utility would have an incentive to reduce
40 customer service. The utilities' margin portion of the uncollectibles is still at risk
41 and there is no evidence to suggest the utilities would have an incentive to reduce
42 customer service. Atmos' increased uncollectibles during the 2000-01 season were
43 not as a result of a shortage of employees as alleged on Page 17, line 369. During
44 that time, Atmos' had numerous call to action plans where additional people were
45 assigned to the collection efforts. Mr. McCormac on line 381 alleges that the utility
46 would avoid extra expenses associated with reading meters, disconnections by
47 allowing customers to remain active and at the same time continue to earn the
48 margin portion of the bill thus earn more revenue and saving cost at the same time.

1 This, Mr. McCormac characterizes as a "scheme." Mr. McCormac is merely
2 speculating and incorrectly assumes that this alleged extra revenue is collected.
3

4 11. It is simply wrong for Mr. McCormac to take the position that the Petitioners
5 will not have any incentive to collect Uncollectible Accounts if the petition is
6 approved. To the contrary, all gas costs are subject to a prudence standard and
7 annual review by the TRA, and are thus subject to the possibility of cost
8 disallowance. The Company must take into consideration the impact of increased
9 uncollected amounts on its cashflow. The Company must pay suppliers for gas
10 supplies, and if the Company does not collect that cost from customers, it must find
11 the cash from some other source, usually short-term credit. This increases debt
12 expense, which, unless in a general rate proceeding, the Company may not be able to
13 recover. The most compelling incentive of all is the ability to attract and retain
14 customers and financial investors. The inclusion of uncollected gas costs in the PGA
15 will not make-up for the lost gross margin, to the extent that the loss is greater than
16 the gross margin bad debt expense included in base rates. The loss of the gross
17 margin will not be looked upon favorably by investors or creditors. The Company
18 most certainly has incentives to manage this cost.
19

20 12. On lines 416-417 of his affidavit, Mr. McCormac states that Atmos has reduced
21 customer service expenses from \$303,479 in 1995 to \$36,764 in 2002; however, he
22 does not reference the document on which he bases this statement. I do not know
23 where this information is from, but I do not agree with the statement. In fact, in our
24 response to Data Request 2 propounded by the CAPD, Atmos reflected customer
25 service expenses of \$1,996,667 for 2002. Why Mr. McCormac chose to ignore this
26 information, I do not know. .
27
28

29 Patricia J Childers
30

31 Patricia J. Childers
32

33 Sworn and subscribed before me this 4th day of
34 December, 2003.
35

36 Dennis B. Sanders
37 Notary Public

38 My Commission expires: March 26, 2005.
39
40
41
42

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:

PETITION OF CHATTANOOGA GAS)
COMPANY, NASHVILLE GAS COMPANY,)
A DIVISION OF PIEDMONT NATURAL)
GAS COMPANY, INC. AND UNITED)
CITIES GAS COMPANY, A DIVISION)
OF ATMOS ENERGY CORPORATION,)
FOR A DECLARATORY RULING)
REGARDING THE COLLECTIBILITY)
OF THE GAS COSTS PORTION OF)
UNCOLLECTIBLE ACCOUNTS UNDER)
THE PURCHASED GAS ADJUSTMENT)
("PGA") RULES)

DOCKET NO. 03-00209

T.R.A. DOCKET ROOM

2003 DEC -4 PM 1:50

RECEIVED

**Petitioners' Motion to Strike Unsubstantiated Statements in the Affidavit
of Daniel McCormac**

Pursuant to Rule 12.06 of the Tennessee Rules of Civil Procedure, Petitioners' Chattanooga Gas Company ("Chattanooga Gas"), Nashville Gas Company, a Division of Piedmont Gas Company, Inc. ("Nashville Gas"), and Atmos Energy Corporation ("Atmos") (collectively, the "Petitioners") move the Tennessee Regulatory Authority to strike certain unsubstantiated statements in the Affidavit of Daniel McCormac filed as Exhibit A to the Response in Opposition to Petitioners Motion for Summary Judgment. The statements to be stricken are in italics in Exhibit 1 to Petitioners' Reply to Response to Motion for Summary Judgment and are also attached hereto.

In support of the Consumer Advocate & Protection Division's ("CAPD") Motion for Summary Judgment and Opposition to Petitioners'

Motion for Summary Judgment, the CAPD relies on the Affidavit of Daniel McCormac. Although the facts contained in Mr. McCormac's Affidavit are not material to the disposition of Petitioners' Motion for Summary Judgment, these facts are unsubstantiated and disputed and for the record, should not be assumed to be correct. Mr. McCormac's Affidavit contains the scope of his purported "expert" testimony and, pursuant to Tennessee Rule of Civil Procedure 26.02(4), Petitioners are entitled to discover the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

After the CAPD filed Mr. McCormac's Affidavit, Petitioners requested the CAPD to supplement its Responses to discovery requests in order to determine the basis of the unsubstantiated and disputed facts contained in the McCormac Affidavit. The CAPD's initial attempt at supplementation was insufficient and by letter dated November 24, 2003, counsel for Atmos requested further supplementation. See Exhibit 2 to Petitioners' Reply to Response to Motion for Summary Judgment. The CAPD responded on November 25, 2003 and filed a supplemental discovery response which is attached to Petitioners' Reply to Response to Motion for Summary Judgment as Exhibit 3. However, that response was equally insufficient. Petitioners requested that the CAPD provide the grounds for the opinions to which Mr. McCormac is expected to testify, and provide a summary for the grounds for each such opinion. The CAPD simply responded as follows: "The current

PGA rule, current and prior practices, data supplied by petitioners, testimony and exhibits given before the PSC and/or TRA in prior proceedings.”

This attempt at supplementation is totally insufficient and fails to adequately identify the grounds and factual basis for the opinions and statements proffered by Mr. McCormac in his Affidavit. For the foregoing reasons, Petitioners respectfully move the Tennessee Regulatory Authority to strike the portions of Mr. McCormac's Affidavit that contain and are based upon unsubstantiated facts and not consider these statements in ruling on the cross motions for summary judgment.

Respectively submitted this 4th day of December 2003.

Chattanooga Gas Company

By: D. Billye Sanders
D. Billye Sanders
Its Attorney
Waller Lansden Dortch & Davis,
PLLC
511 Union Street, Suite 2100
Nashville, TN 37219-1760
(615) 244-6380

Nashville Gas Company, a
Division of Piedmont Natural Gas
Company, Inc.

By: James H. Jeffries IV
James H. Jeffries IV
Jerry W. Amos
Its Attorneys
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Scarborough, L.L.P.
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Corporate Center, Suite 2400
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Atmos Energy Corporation

By: Joe A. Conner by DKS
Joe A. Conner
Misty Kelley
Its Attorneys
Baker, Donelson, Bearman &
Caldwell, P.C.
1800 Republic Centre
633 Chestnut Street
Chattanooga, TN 37450-1800
(423) 756-2010

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been
mailed, postage prepaid to the following this 4th day of December, 2003.

Shilina B. Chatterjee
Vance Broemel
Assistant Attorneys General
Office of Consumer Advocate and Protection Division
425 Fifth Avenue North
Nashville, TN 37202-0207

D. Billye Sanders
D. Billye Sanders

3. Pg. 16, ln. 352-353; pg. 17, ln. 366-372.

Q. How could the utilities have an incentive to allow Uncollectible Accounts expense to rise?

A. ...For example, during the winter of 2000-2001, *some of the petitioners did not have sufficient employees to follow the established disconnection and connection policies. As a result of the shortage of employees, some consumers who were not paying the gas bills were allowed to continue to take gas even through the summer of 2001. This quite likely contributed to the increased levels of Uncollectible Accounts expense in 2001.*

4. Pg. 18, ln. 405; ln. 407-409; pg. 19, ln. 411-417, ln. 423-425, 429-436; Pg. 20, ln. 446-448; Pg. 21, 461-462.

Q. Does this support the need for a rate change?

A. ...For example, *interest expense on short term debt has declined by 50% or more in the last few years. Other expenses have saved these utilities millions of dollars. . . . Perhaps the Petitioners could use some of these savings to offset any increase in Uncollectible Accounts expense instead of trying to increase rates to consumers. Atmos and Chattanooga Gas have also reduced levels of employment in Tennessee. Chattanooga Gas has reduced service employees from 37 in 1996 to 30 in 2003. Atmos has reduced customer service expenses from \$303,479 in 1995 to \$36,764 in 2002. . . . It is quite possible that the extra \$2 late charge associated with*

the higher costs of gas could offset a large portion of any increase in Uncollectible Accounts expense. . . . In the 2003 Nashville Gas rate case, Uncollectible Accounts expense was assumed to be .45% of total revenues. Similarly, the latest Atmos rate case assumed .12% of revenues for Uncollectible Accounts expense, but the Forfeited Discount revenue was estimated to be .43% of revenues. If the utilities want a rate increase to adjust for increases in Uncollectible Accounts, the utilities should also be willing to give a rate reduction to reflect increases in Forfeited Discounts revenue. . . . In addition, the petitioners are collectively receiving millions of dollars per year in "incentive payments" over and above actual gas costs. . . . If these utilities want the opportunity to earn 8%, 9%, 10% or more on equity, there needs to be some risk involved. The 9% return needs to be earned not given to the investors! . . . The current process is cumbersome and error prone. Allowing another layer of automatic cost recovery will only further complicate the process.

5. Pg. 23, ln. 508-509; ln. 515-520.

Petitioners are attempting to . . . provide a speedup in expense recovery which reduces the proper incentives for good management of expenses; . . . provide a subsidy for reducing service quality through continued reductions of service personnel . . . provide an opportunity for less regulatory oversight responsibility and accountability.

EXHIBIT 1 TO PETITIONERS' REPLY TO RESPONSE TO MOTION FOR
SUMMARY JUDGMENT

Some of the unsubstantiated, disputed immaterial facts in Daniel McCormac's Affidavit are listed below¹:

1. Pg. 13, ln. 253-261.

Q. Would you explain how historical practice supports the current interpretation of the current rule that utilities are allowed to "bill" all prudently incurred gas costs?

A. The petition attempts to change the historical interpretation of the PGA rule. *The PGA rules were designed to allow companies to "recover" gas costs by "billing" those costs to consumers. The PGA rules have been interpreted this way consistently since implementation in 1970.* Unpaid bills are called "Uncollectible Accounts" expense and have been recovered through the base rate portion of revenues as part of the authorized gross profit margin established in a rate case.

2. Pg. 13, ln. 270-271; pg. 15, ln. 316-317, 320-322.

Q. What were some of the unprecedented circumstances surrounding the one-time-only allowance?

A. . . . The modified petition that was filed by the gas industry in 2001 was ultimately approved. *But that petition was presented as an exception to the rule . . . This good-faith exception should not be used as a precedent to change an interpretation that has endured for 33 years.*

¹ This list is not necessarily exhaustive of statements that are disputed and immaterial to the disposition of the Motions for Summary Judgment.